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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

REX CHAPPELL,

Plaintiff,

No. 2:09-cv-1465 GEB KJN P

vs.

T. PEREZ, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding without counsel. On February 18, 2010, the undersigned dismissed plaintiff's complaint with thirty days to file an amended complaint. Dkt. No. 15. Thirty days passed and plaintiff did not file an amended complaint. Accordingly, on April 23, 2010, the undersigned recommended that this action be dismissed. Dkt. No. 16.

On April 28, 2010, plaintiff filed a motion for extension of time to file an amended complaint (Dkt. No. 17) and a motion for return of his legal materials (Dkt. No. 18). On May 12, 2010, plaintiff filed objections to the findings and recommendations (Dkt. No. 19).

In his three recently filed pleadings, plaintiff alleges that he was unable to prepare his amended complaint because he is being denied access to his legal materials. In his motion for return of legal materials, plaintiff alleges that he is allowed to have one cubic foot of legal property in his cell. Plaintiff contends that prison officials refuse to allow him to trade the box of

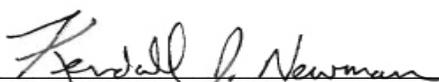
1 legal property he has in his cell for another one. Plaintiff alleges that he requires access to his  
2 legal property because it contains evidence in support of the claims he wishes to raise in this  
3 action. Plaintiff also alleges that he requires access to his legal property not only to pursue the  
4 instant litigation, but also other actions he has pending in this court.

5 Plaintiff is not required to attach evidence to his amended complaint. Rather, the  
6 amended complaint need only contain a short and plain statement of plaintiff's claims. Fed. R.  
7 Civ. P. 8. For that reason, it is unclear what particular legal property plaintiff requires access to  
8 in order to prepare his amended complaint. In addition, the undersigned may only order that  
9 plaintiff have access to legal property related to this case. Because it is not clear why, or even if,  
10 plaintiff requires access to his legal property to prepare his amended complaint, his motion for  
11 return of his legal property is denied without prejudice. Plaintiff may renew this motion if he is  
12 able to demonstrate that he truly requires access to particular documents in order to prepare his  
13 amended complaint.

14 Good cause appearing, IT IS HEREBY ORDERED that:

- 15 1. The April 23, 2010 findings and recommendations (Dkt. No. 16) are vacated;
- 16 2. Plaintiff's April 28, 2010 motion for extension of time to file an amended  
17 complaint (Dkt. No. 17) is granted; plaintiff's amended complaint is due within thirty days of the  
18 date of this order;
- 19 3. Plaintiff's motion for return of his legal property (Dkt. No. 18) is denied  
20 without prejudice.

21 DATED: May 19, 2010

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25 KENDALL J. NEWMAN  
26 UNITED STATES MAGISTRATE JUDGE

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